

§ 3461.3

(c) When the authorized officer does not receive a response either to a request for concurrence which is required by this subpart but not by law, or to consultation within the specified time, he or she may proceed as though concurrence had been given or consultation had occurred.

[44 FR 42638, July 19, 1979, as amended at 47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.3 Relationship of leasing to unsuitability assessment.

§ 3461.3-1 Application of criteria on unleased lands.

(a) The unsuitability criteria shall only be applied, prior to lease issuance, to all lands leased after July 19, 1979.

(b) The unsuitability criteria shall be initially applied either:

(1) During land use planning or the environmental assessment conducted for a specific lease application; or

(2) During land use planning under the provisions of § 3420.1-4 of this title.

[47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.3-2 Application of criteria on leased lands.

The unsuitability criteria shall not be applied to leased lands.

[47 FR 33149, July 30, 1982. Redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.4 Exploration.

(a) Assessment of any area as unsuitable for all or certain stipulated methods of coal mining operations pursuant to section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272) and the regulations of this subpart does not prohibit exploration of such area under subpart 3410 and Part 3480 of this title.

(b) An application for an exploration license on any lands assessed as unsuitable for all or certain stipulated methods of coal mining shall be reviewed by the Bureau of Land Management to ensure that exploration does not harm

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any value for which the area has been assessed as unsuitable.

[44 FR 42638, July 19, 1979. Redesignated and amended at 47 FR 33149, July 30, 1982; 50 FR 8627, Mar. 4, 1985. Further redesignated at 52 FR 46473, Dec. 8, 1987]

§ 3461.5 Criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining.

(a)(1) *Criterion Number 1.* All Federal lands included in the following land systems or categories shall be considered unsuitable: National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, National Wild and Scenic Rivers System, National Recreation Areas, lands acquired with money derived from the Land and Water Conservation Fund, National Forests, and Federal lands in incorporated cities, towns, and villages.

(2) *Exceptions.* (i) A lease may be issued within the boundaries of any National Forest if the Secretary finds no significant recreational, timber, economic or other values which may be incompatible with the lease; and (A) surface operations and impacts are incident to an underground coal mine, or (B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those National Forests west of the 100th Meridian, that surface mining may be in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1976 and the Surface Mining Control and Reclamation Act of 1977.

(ii) A lease may be issued within the Custer National Forest with the consent of the Department of Agriculture as long as no surface coal mining operations are permitted.

(3) *Exemptions.* The application of this criterion to lands within the listed land systems and categories is subject to valid existing rights, and does not apply to surface coal mining operations existing on August 3, 1977.

(b)(1) *Criterion Number 2.* Federal lands that are within rights-of-way or easements or within surface leases for residential, commercial, industrial, or other public purposes, on federally